G. R. S. III—1] 1920.

1

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

File No. 257-19

FILE HEADING.

Instruction in the matter of trial of a Criminal Case by a local magistrate when the accused are subject to Indian Military Law.

From The District Magistrate Mysore District.

R.C.C. No. 1833/J19.20 Dated 7th May 1920 Received on 12-5-1920

Diary No. 21175 | Enclos. 2 Spare Copies. nil | Serial No. 1

BRIEF ABSTRACT OF LETTER.

States that the Mysore Rifle Pioneer have charge-sheeted certain employees of Sappers & Miners Bangalore, for offences under Ss 352, 353, 410 I.P.C. & the Army Act Regulation & solicits instructions as to the position whether the local magistrate can try them and if so requests adding the authority required whether they have the right of trying them.

NOTES AND ORDERS.

First

Kind attention is invited to the last portion of the notification no. J. 1598, dt 12th Dec 1906, wherein it is stated that 'the Courts of the State are not debarred from exercising jurisdiction in the case of a native officer or soldier of the Indian Army with regard to offences committed by them when on leave'

NOTES—First Sheet.

2175 2

23645

G. R. S. III-2;

General and Revenue Secretariat. | Ch File No. 257 of 1919.

Serial No.	
	Submitted with a draft to the Rst, for approval or other orders. KR 15/6/20 2) J Graves D.M. 15/6.
2	To The F. A. Resident in Mysore. No. Pol. 1181 dt 21st June 1920. Requests to intimate whether the Military authorities concerned are agreeable to waive the right of trying the accused & allow the local Magistrate to proceed with the work.
	Sus pt 4/6.
3	From, The F. A. Resident in Mysore no 5748 dt 17th June 1920 recd on 21/6/1920. Requests information whether the Sepoys of the Sappers & Miners were on leave at the time of the alleged assault and whether they are Durbar subjects. 3) Subd: with a draft, for approval KR 21/6/1920 Sus pt 21/6 4) J Graves D.M. 22/6
4	To The District Magistrate, Mysore. No. G. 27957 dt 22nd June 1920. Forwards a copy of Sl 3, & calls for information required therein.

Note—Contn. sheet No.

1- JUL 1920

2 Jobs 693 (3)

G. R. S. III-2)

General and Revenue Secretariat. | Ch File No. 95 of 1919.

Serial No.	
5.	From, The District Magistrate, Mysore Dist. R-OC. No. 1833/19-20 dt. the 10th July 1920 recd. on 13-7-20. States that the Sepoys are reported to have been on leave at the time when the assault was committed and that they are Dunbar Subjects being natives of French Rocks. Subd. with a draft to the Rly for approval 14/7/20 14/7 1417 1) Please see D. No. 1547
6	To The F. A. Resident in Mysore. No. Pol. 71 dt 17th July 1920. States that the Dist. Magt., Mysore reports that the Sepoys are reported to have been on leave at the time when the assault was committed & that they are the Dunbar Subjects.
7	From The F. A. Resident in Mysore No. 7821 dt 7th Sept 1920 recd. on 9-9-20. States that the Hon'ble the Resident has no objection in allowing the Dunbar Court to try the offenders and requests that the Goose trials may be arranged to be held in Bangalore.

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat. | Ch. File No. 257 of 1919.

Serial No.

7)

The Resy has requested to arrange the holding of trials in Bangalore, for the convenience of the accused (perhaps) Subo for orders.

9/9/20. 8) The charge sheet in the case was proposed to be placed before the Special Second grade magistrate, Bench Rocks. As the Residency have now suggested the holding of the trial in Bangalore, action has perhaps to be taken under Section 526 of the Criminal Procedure code.

9/9 9) If approved, the Dist: magte will be asked to take action accordingly & the Residency will be informed of it.

D. M. 13/9

1859 14-9-20.

III Members.

10) Do not see from the statements placed on the file, that the Residency has got the powers which the Dewan & Chief Judges had in any particular case or by any particular order. I would like to be informed with the points of the case according thereto.

11) Has the govt no power to move the High Court in any particular case?

12) Invite the attention of the facts of the case as well.

14/9

Resy Mysore Bangalore

Note—Contn. sheet.

WD A 1789—GPB—60,000—20-5-18—S.

(5

G. R. S. III-2]

General and Revenue Secretariat.

25 File No. 257 of 1919.

Serial No.

(1) Please put up the Police file containing the facts of the case.

D. M. 2/19

D06: 119/19 contains the necessary info.

D. M. 2/19

(4) It is clear from the Police of 12th June 1906 that the Courts of the State can exercise jurisdiction of the Offences of Commission by the native officers or soldiers while he is on leave, though it would in any case be necessary to move the Military authorities to hand over the accused for trial.

(5) It is not clear, however, whether the accused in the present case are liable to be dealt with by a Court-Martial as stated by the D. M. in his letter dt. 7th May 1920. It would appear that the whole question has been fully discussed in the Lalbagh series of cases which occurred 2 years ago. Please trace the files early & put up all refers.

D. M. 23/19

Resubd with.

(1) Police file 194-16 relating to the disturbances near Lal Bagh; Please see note on Page 6 of the Police note in that file,

and

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat. | C5 File No. 257 of 1917.

Serial No.

(ii) Manual of Indian Military Law. Section 41 of the Indian Army Act enables the offence in question being tried by a Court martial. Please see also para 1 of chapter VI headed 'Civil Offences'.

A.S. 24/9

Under S. 41 I.A.A. all offences committed outside B. India are liable to be tried by Court-martial. Hence it was necessary to address the Residency as suggested by the D.M., Mysore.

Submitted for orders

D. M. 26/9

Chief Sec'y

1) The notn. of 1906 regulates the procedure so far as concerns the Indian & the Resn. Under the notn. the Resn have no right to ask that the case should be tried by any particular Court.

In the present case the Resn suggest a trial at Bangalore only as a matter of convenience.

Under the Cr. Pro Code Govt. have no power to direct a particular case to be tried in a

NOTE—Contn. sheet.

Serial No.

particular place or court.

The chief court will have to be moved in the usual manner for a transfer.

3rd member).

28/9/20

Dft No: 119/19 containing the facts of the case is also submitted.

D. M. 28/9

2090 / 22.9.20

Govt. the Govt Advocate may be requested to move for the transfer of this case to some court in Bangalore.

2/10

D. M. 2/10.

2/10

Subd: with a draft order for approval

5/10

5/10 III (Member approves)

D. M. 2/10

2361 / 7-10-20

5/10 - Issued

D. M. 8/10

8

To

The District Magistrate, Mysore
The Government Advocate &
The D. G. of Police.

No. G. 7908-10 dt 9-10-20.

Authorises the Govt. advocate to move

NOTE—Contn. sheet.

G. R. S. III-21

General and Revenue Secretariat.

Ch File No. 157 of 1919.

Serial No.

the chief Court for the transfer of the criminal case against the Military offenders from the file of the French Rocks Magistrate to a Court in the Bangalore city for convenience.

RIA
30 OCT 1920

NOTE—Contn. sheet.

No. 1533
1919-20

9

Office of the District Magistrate,
Mysore District.
Dated, Mysore, 7th May 1920.

From

P.F. Bowring, Esquire,
District Magistrate,
Mysore District.

21175
19 20
Ch
15-7-19

To

C.S. Balasundaram Iyer, Esquire, B.A.,
Chief Secretary to the Government of
His Highness the Maharaja of Mysore,
Bangalore.

Sir,

I have the honor to state that the Mysore Railway Police have placed a Charge Sheet on the 30th April 1920 against the marginally noted individuals, all employees in the Sappers and Miners, Bangalore, for offences under Sections 352, 353, 510 of the Indian Penal Code, and section 103 of the Mysore Railway Regulation, in the Court of the Special 2nd Class Magistrate, at French Rocks. As the accused are subject to Indian Military Law and liable to be tried by a Court-Martial, I request that Government may kindly address the Military authorities concerned whether they waive the right of trying them, and have no objection for the local Magistrate proceeding with the case.

2. The charge sheet relating to the case is herewith submitted for reference and return when done with.

I have the honor to be,
Sir,
Your most obedient servant,

P. F. Bowring

A.I.

District Magistrate,
Mysore District.

30321

1919-20

From

The District Magistrate,

Mysore District.

To

The Chief Secretary to Govt.,

Bangalore.

Dated 7th May 1920.

Despatched

Received 8 MAY 19..

General No. Ex 1833/919-20

No.

Enclosure No. 2.

---

1. Rajendram No.10375
2. Aryappa No.6817
3. Mavilder Chinniah. No.4024

belonging to the Sappers and Miners., Bangalore.

Soliciting instructions in the matter of trial of a criminal case by a local Magistrate, when the accused are subject to Indian Military Law.

Immediate.

10

No. 863 Office of the Superintendent of Police,
Railways and C.I.D. in Mysore,
Dated, Bangalore, the 19th April 1920.

20

M E M O R A N D U M.

Reference:- Special Diary Part VII in Crime No. 12/1920(Complainant Malliah P.C. No.14 Vs. Accused Sappers and Miners) stating that the Charge sheet was refused by the French Rocks Special Magistrate.

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(1) Section 549 C.P.C. (by Sir H.T. Prinsep, K.C.I.E., 14th Edition) "that when any person is accused of a non-Military law, he shall be delivered to the nearest Magistrate to be dealt with in accordance with law."

Flag T

(2) Government Notification No. J.1598-Cts. 75-06-2 dated 11th December 1906:- x x x

(ii) The Courts of the State are not debarred from exercising jurisdiction in the case of a Native Officer or soldier of the Indian Army who while on leave within the State.

(a) commits within the State an offence of any kind against the law of the State, or,."

Under the above circumstances a charge sheet may again be placed before the French Rocks Special Magistrate and if he still refuses to accept it, a written order, to that effect, may be obtained, if it has not already been done, and then the same (charge sheet) may be placed before the District Magistrate for orders.

It may also be brought to the notice of the court that this court is alone competent under section 549 C.P.C. to make a

reference to the Military authorities through the District Magistrate if the court should think such procedure is necessary.

Superintendent of Police,
Railways and C.I.D.

To

The Inspector,
B/N. Section,
Mysore.

Sub. Insp. Mysore
for immediate attention.

P.P. Ramaswamy Iyengar
Rly Police Inspector
Mysore.
22.4.20.

12

G. R. S. VI—G/32]

SUBJECT.....

.....

.....

Diary No. of letter replied to... 2175

GENERAL AND REVENUE SECRETARIAT

( )

the 191 .

Date of issue... 21 - 5 - 20

Signed by... Mr. C. S. B. Iyer

Section C',
File No. 2 [illegible]
Serial No. 2 [illegible]

No. Pol 1181 Encl 2

To

The F. A Resident in Mysore

Sir,

In continuation of this office no Pol 783 dt 20.1.1920 re the assault committed by certain Sepoys of the Sappers & Miners on the Police Constables and some Ry employes at the French Rocks Ry Stn on the 19th Dec 1919

I am directed to forward herewith a copy of letter no R.OC 1833/I 19-20 dt 7th May 1920 from the District Magistrate of Mysore and to request you to kindly intimate whether the Military authorities Concerned are agreeable to waive the right of trying the accused and allow the local Magistrate to proceed with the Case.

2. ~~A third reference is invited to~~

P.T. over.

[illegible]

13

notification no. J 1598, of the 12th Dec 1906, copy of which is enclosed for reference.

3. The Charge-Sheet relating to the Case is herewith & also forwarded for reference & kind return when done with.

I have &c

for Chief Secretary

12/14

List of enclosures.

Copied by

Examined by

WD 1944—GPB—80,000—19-3-19

R. O. 2.—R. P. B.—2—1902.—5000.

No 5148

FROM

MAJOR C. T. C. PLOWDEN, I. A.,
FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

TO

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore.

PROTECT... 19 JUN 1920

Dated Bangalore, 17th June 1920

SIR,

With reference to your letter No. Pol. 1181, dated the 21st May 1920, I am directed to request that the Hon'ble the Resident may kindly be informed whether the sepoys of the Sappers and Miners who committed assault on Police Constables etc., at the French Rocks Railway Station on 29th December 1919, were on leave at the time and also whether they are Durbar subjects.

I have the honour to be,
Sir,
Your most obedient servant,

FIRST ASSISTANT RESIDENT.

CVV.

15

G. R. S. VI—G/32]

SUBJECT.....

.....

.....

Diary No. of letter replied to....7.30.45.

Section Ch
File No. 25/19
Serial No. 4

GENERAL AND REVENUE SECRETARIAT,
( )
, *the* 191 .

No.

Date of issue.....22/6.....

Signed by.....M. Rae.....

~~To~~

Here enter letter no 5748-1 & 17th June 1920,
from the F.A. Resident in Ipoh
Memo no: G 27957
Copy of the above is forwarded
to the District Magistrate, Ipoh District,
~~for Complying with the request~~, with
reference to his letter no. R.O.C 1833/J.G 20
& 7th May 1920. ~~& the list of Sepoys of~~
~~the Sappers & Miners who are alleged to~~
~~have Committed assault on Police Constable~~
etc. at the French Rocks Railway Station
on 29th Dec 1919.

The information required by the Residency may be kindly furnished by early.

~~over.~~ By order

D. Ch.
21/6.
for Chief Secy

Noted 21/6

693

No. 1533
1920

Office of the District Magistrate,
Mysore District.
Dated, Mysore, 10th July 1920.

From

C. Lakshmana Rao, Esq, B.A.,B.L.,
Assistant Commissioner in
District Charge,Mysore.

To

C.S. Balasundaram Iyer, Esquire, B.A.,
Chief Secretary to the Government of
His Highness the Maharaja of Mysore,
Bangalore.

Sir,

With reference to your Memo No.G.27957/Cts.257-19-4 dated the 22nd June 1920, calling for additional information in regard to the case of assault by the Sepoys of the Sappers and Miners on Police Constables at the French Rocks Railway Station, I have the honor to state that the Sepoys are reported to have been on leave at the time the assault was committed ~~by~~ and that they are Durbar Subjects being natives of French Rocks.

I have the honor to be,
Sir,
Your most obedient servant,

Assistant Commissioner in
District Charge,Mysore.

A.N.

19

From

The District Magistrate,

Mysore District.

To

The Chief Secretary to Govt.,

Bangalore.

Dated 10th July 1920.

Despatched

Received 12 JUL

General No. Roc 1833/1920

No.

Enclosure No. Nil

Furnishing the addl particulars of Sappers & Miners who assaulted the police at Srirangapatna.

SECRETARIAT
12 JUL 1920

G. R. S. VI—G/32]

17

17

SUBJECT.....

.....

.....

Diary No. of letter replied to.....693.....

GENERAL AND REVENUE SECRETARIAT,
( )
, the 191 .

Date of issue 17th July 1920

Signed by Mr C. S. B. Iyer

Section Ch
File No. 257—19
Serial No. 6

No. Ldl 71

To

The Assistant Resident in Mysore

Sir,

With reference to your letter No. 5148/B 17th June 1920, calling for additional information in regard to the case of assault by certain Sepoys of the Sappers & Miners on Police Constables at the Bench Rocks Railway Station, I am directed to state that the District Magistrate of Mysore reports that the Sepoys are said to have been on leave at the time when the assault was committed and that they are Durbar

P.T. over.

4163

Pol 391

1920 219

SECTION CS

FILE NO. ~~CS 50~~

SERIAL NO. 25 49

R. O. 2.—E. P. B.—2—1902.—5000.

No 7821 Encls. 1

Ch Secy
7 SEP 1920

FROM

MAJOR C. T. C. PLOWDEN, I. A.,
FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

TO

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore.

CHIEF SECRETARIAT
PROTECTION 83 1921
SEP 1920
CS 29

Please note the file ch 25-19.

Dated Bangalore, 7th Septr. *19* 20.

SIR,

With reference to the correspondence ending with your letter No. Pol.71, dated the 17th July 1920, regarding the trial of - - Rajendram and 2 others of the 2nd (Queen Victoria's Own) Sappers and Miners, I am directed to say that the Hon'ble the Resident has been pleased to give his consent to their trial by a Durbar Court. The Military authorities will deliver the accused to the Durbar when necessary.

2. I am, however, to request that, for convenience, the trial may be arranged to be held in Bangalore.

3. The charge sheet received with your letter No. Pol.1181, dated the 21st May 1920, is returned.

I have the honour to be,
Sir,
Your most obedient servant,

FIRST ASSISTANT RESIDENT.

No.

No. 7822 91.

A copy of the foregoing letter is forwarded, to the Station Staff Officer, Bangalore Brigade, for information with reference to his letter No. 231/145/S.1., dated the 31st August 1920.

sd. E. T. C. Plowden

FIRST ASSISTANT RESIDENT.

BJ

G.R.S. VI–71] 8/5

21

SUBJECT..... Authorise the Govt Advocate to move the Chief Court for the transfer of the Criminal Case against the Military Offenders from the file of the French Rocks Magistrate to a Court in the Bangalore city for conv...

Diary No. of letter replied to..... 4163.

Section Ch.

File No. 25 / 19

Serial No. 8

General and Revenue Secretariat

( )

Proceedings of the Government of His Highness the Maharaja of Mysore.

, *the* 191 .

Date of issue..... 9/20

Signed by..... M Rao

Read—

Letter R.O. no 1933/J.19.20 of the 7th May 1920, from the District Magistrate, Mysore District, stating that the Mysore Railway Police have placed a Charge sheet against certain employees in the Sappers & Miners, Bangalore, for offences under Sects 352, 353 & 510 of the Indian Penal Code & Sec 103 of the Mysore Railway Regulation, in the Court of the Special Second Class Magistrate, ~~Ordered thereon~~ at French Rocks, and requesting ~~to intimate if the Opinion of the Military~~ Authorities ~~Whether they~~ are willing to waive the right of trying them by Court-martial as the offenders are subject to military law and

May this be

i Printed ?

ii treated as a standing order ?

ii published in the Gazette, English Part ?

iv translated ?

v placed at the disposal of the press ?

vi published in the Gazette Kannada Part ?

that it maybe ascertained whether

P.T.O.

2 2

Whether they have no objection for the local Magistrate proceeding with the Case.

2) Correspondence ending with letter no. 7621 & 7th Sept 1920 from the First Asst to the Hon'ble the Resident in Mysore stating that the Hon'ble the Resident has given his consent to the trial of the said Military employees by a Dumbar Court and requesting ~~for~~ ~~favour~~ that the ~~Case~~ trial may be arranged to be held in Bangalore, for Convenience:

Order no: Cp 7908-10(1)

Under S. 526, Criminal Procedure Code, the Government Advocate is requested to move the Chief Court for the transfer of the above said Criminal Case from the file of the Special Second grade Magistrate, French Rocks, to any one of the Criminal Courts in the City of Bangalore. ~~for convenience~~.

List of enclosures.

Copied by

Examined by

WD 1744—GPB—30,000—17-3-19

For Chief Secy

To

The Dt. Magistrate, Mysore Dt. (returning the Charge Sheet)

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(Continuation sheet draft form.)

" Government Advocate in Mysore

" Insp.-General of Police.

5-10-20.

6/10